

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

NEWPORT-MESA UNIFIED SCHOOL  
DISTRICT.

OAH CASE NO. 2013100421

ORDER DENYING REQUEST TO  
RESCHEDULE MEDIATION

On October 9, 2013, Student filed a due process hearing request against the Newport-Mesa Unified School District. On October 16, 2013, the parties filed a request to reschedule the currently set mediation of November 13, 2013, to October 30, 2013.

Upon the filing of a due process complaint by a student, a school district must convene a meeting to discuss the issues raised in a due process complaint in order to attempt to resolve the dispute. (34 C.F.R. § 300.510 (a)(1), (2); Ed. Code, § 56501.5, subd. (a).) This meeting is commonly known as a resolution session. A resolution session need not be held if the parent and school district agree in writing to waive it (*Id.* at § 300.510 (a)(3)(i); § 56501.5, subd. (b)) or if the parent and school district agree to use mediation instead of a resolution session (*Id.* at § 300.510 (a)(3)(ii); § 45401.5, subd. (b)). If the parties agree to waive the resolution session, the 45-day timeline for a due process hearing begins the day after the waiver. (*Id.* at § 300.510(c)(1); 56501.5, subd. (d)(1).) However, the timeline does not automatically begin if the parties agree to use mediation instead of a resolution session. (*Id.* at § 300.510(c); also see 56501.5, subd. (d).) Without an affirmative act by the parties notifying the Office of Administrative Hearings (OAH) that they either agree to waive the resolution session or agree to use mediation in lieu of the resolution session, OAH may not take any action to hold either a mediation or a due process hearing during the 30-day resolution session time period.

Here, the parties request that mediation be rescheduled to October 30, 2013. The 30-day resolution session period in this matter does not expire until November 9, 2013. The request submitted by the parties does not affirmatively waive the resolution session or request mediation in lieu of the resolution session, and is not signed by a representative for both parties. Accordingly, the request is denied. All dates are confirmed.

Dated: October 17, 2013

/s/

BOB N.VARMA  
Presiding Administrative Law Judge  
Office of Administrative Hearings